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LETTER DATED 22 JANUARY 1998 FROM THE SECRETARY-GENERAL ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to refer to Security Council resolutions 1013 (1995) of 7 September 1995 and 1053 (1996) of 23 April 1996, in which the Council authorized the establishment of an International Commission of Inquiry with the mandate to collect information on the sale or supply of arms and related matériel to former Rwandan government forces in the Great Lakes region in violation of Council resolutions 918 (1994) of 17 May 1994, 997 (1995) of 9 June 1995 and 1011 (1995) of 16 August 1995. I refer also to the third report of the International Commission of Inquiry annexed to my letter to the President of the Security Council dated 1 November 1996 (S/1997/1010).

In its report, the Commission indicates that it endeavoured to obtain information from certain Governments in order to bring its investigations to a successful conclusion. At the time of the preparation of the report in October 1996, several of the Governments concerned had not been in a position to reply to the Commission.

Since then, certain Governments have furnished additional information to the Commission. This information is contained in the present addendum (see annex), which also contains the conclusions of the Commission as to the manner in which it should proceed with its work if the Security Council decides to renew its mandate.

I should like to point out that if voluntary contributions are not made to the Commission's budget, as called for in paragraph 8 of Security Council resolution 1013 (1995), the Commission's work would continue to be financed by the Organization. Thus, if the Council decides to pursue its investigations, it will be necessary to appropriate the funds required under the Organization's regular budget.

(Signed) Kofi A. ANNAN

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Annex

[Original: English]

Addendum to the third report of the International Commission of Inquiry (Rwanda)

I. REPLIES RECEIVED FROM GOVERNMENTS IN RESPONSE TO REQUESTS FOR INFORMATION FROM THE COMMISSION

1. The third report of the International Commission of Inquiry (Rwanda), which was conveyed to the President of the Security Council in November 1996 (S/1997/1010, annex), contained the responses of a number of Governments to requests for information sought from them by the Commission. Since then, a number of other replies from Governments approached by the Commission have been received and are summarized below.

A. BELGIUM

2. In a letter dated 21 November 1996, in response to a letter from the Chairman of the International Commission dated 14 October 1996, the Permanent Representative of Belgium to the United Nations described an internal investigation conducted by his Government into allegations that had come to the notice of the Commission concerning a consignment of weapons apparently of Belgian origin. The Government of Belgium informed the Commission that it had found no indication that the weapons in question had been diverted for the use of the former Rwandese government forces.

B. CZECH REPUBLIC

3. On 10 September 1996, the Commission wrote to the Government of the Czech Republic to inquire about possible approaches to that country's arms industry that might have originated from the former Rwandese government forces. On 31 October 1996, the General Directorate of Customs of the Czech Republic replied that it had carried out an investigation into the export of weapons and munitions of a military and non-military character to the countries of Central Africa. The Licensing Department of the Ministry of Trade and Industry had issued 11 licences to date for the region in question, of which three pertained to the export of military matériel, while the rest related to non-military weapons such as hunting rifles. From the letter, it appears that none of the goods for which export licences were issued had been acquired or used by the former Rwandese government forces.

C. EGYPT

4. By a letter dated 4 November 1996, the Permanent Representative of Egypt to the United Nations replied to a letter dated 31 August from the Chairman of the Commission in connection with a report that two aircraft registered in Ukraine,

each alleged to be carrying 30 tons of weapons and ammunition, had landed in Egypt in June 1996 en route from Bulgaria to Kinshasa and that the arms could have been destined for the former Rwandese government forces in violation of the United Nations arms embargo.

5. The reply from the Permanent Representative stated:

> "I have been instructed by my Government to inform you that the incident referred to did not take place and that no registered flights from Bulgaria carrying weapons or ammunition en route to Zaire landed in Egypt during the period mentioned in the Chairman's letter.
>
> "I would appreciate it highly if the reply from the Government of Egypt could be reflected in your forthcoming report to the Security Council. May I also seize this opportunity to confirm Egypt's firm adherence to the United Nations resolutions relating to arms embargoes, whether in Rwanda or in any other area."

D. ITALY

6. On 25 November 1996, the Permanent Representative of Italy to the United Nations wrote to the Secretariat enclosing a reply from the competent Italian authorities to the letter dated 26 September from the Commission concerning the discovery of TS-50-type Italian-made anti-personnel mines in Rwanda. The Commission was informed that mines of that type had not been available to the former Rwandese government forces before the imposition of the arms embargo on 17 May 1994.

7. The Government of Italy's response stated:

> "The company referred to is Tecnovar Italiana Srl, which also deals with the manufacturing of other plastic items [and is] located in Modugno (Bari), via de Gigli 3. Its director ... confirmed that the company manufactured the plastic parts of the yellow TS-50-type anti-personnel mines in the period from 1980 to 1993, when the company stopped producing such items.
>
> "The inquiry revealed that the Tecnovar company did not supply type TS-50-type anti-personnel mines to Zaire, Kenya or the United Republic of Tanzania."

8. The Government's letter noted that between 1980 and 1993, when production ceased, the company had supplied plastic parts for TS-50 mines to Brazil, Egypt, Spain and the United States of America. The letter also explained the procedures followed to secure authorization from the Italian Defence General Staff to initiate negotiations concerning requests for military equipment made by foreign Governments or intermediaries and the modalities of purchase, including the issuance of the end-user certificate and authorization for final exportation.

9. By a note verbale dated 1 April 1997, the Permanent Representative of Italy to the United Nations informed the Commission that the Attorney-General's Office in Bari was undertaking preliminary criminal investigations into a possible violation of the regulations governing the exportation of arms in connection with the discovery of TS-50 anti-personnel mines in Rwanda by the International Commission. The Attorney-General's Office requested further information from the Commission.

10. On 7 May 1997, the Chairman of the Commission replied to the Government of Italy stating the circumstances under which the anti-personnel mines had been discovered (see also paras. 49-51 of the Commission's third report (S/1997/1010, annex)).

E. MALTA

11. As noted in paragraphs 57 to 59 of its third report, the International Commission wrote on 22 August 1996 to the Government of Malta in connection with the flight of an aircraft that had left Malta on 25 May 1994, apparently carrying a single passenger listed as "Bagosera, T.". The name is similar to that of Col. Théoneste Bagosora, who was implicated in the delivery of arms to the former Rwandese government forces in violation of the Security Council embargo. Col. Bagosora, the former Director of the Office of the Rwandese Minister of Defence from 1992 to 1994, is now in the custody of the International Criminal Tribunal for Rwanda accused of genocide and crimes against humanity. The reply of the Government of Malta is referred to in paragraph 58 of the Commission's third report.

12. In response to a request for further information sent by the Commission on 4 October 1996, the Deputy Prime Minister and Minister for Foreign Affairs and the Environment of Malta, by a letter dated 6 December 1996, informed the Commission that the Maltese authorities had investigated the issues raised by the Commission. No immigration records had been found to indicate that a person called T. Bagosera had entered or left Malta at the time in question. The identities of the one passenger and the four crew members of the aircraft had been established and none bore that name. The aircraft was carrying 600 boxes of paper currency bound for Nigeria and it had been confirmed that the aircraft had indeed gone directly to Nigeria, where the cargo was unloaded. In support of this information, the Government of Malta made available to the Commission detailed documentation relating to the flight, including the arrival and departure cards of the crew members, the general declaration submitted to the Maltese immigration authorities, the general declaration prepared for the departure of the flight by Air Malta and other documents relating to the nature of the cargo and the identity of the passenger and crew.

13. The Deputy Prime Minister invited the Commission to extend its inquiries to Nigeria and Belgium to pursue the matter of the general declaration bearing the name "Bagosera, T.", since no such general declaration could be found in the records of the appropriate Maltese authorities and the date and destination on the copy of the general declaration in the possession of the Commission were inaccurate.

F. PORTUGAL

14. On 22 August 1996, the Chairman of the Commission wrote to the Government of Portugal requesting information on the origin of weapons inspected by the Commission in Rwanda. By a letter dated 30 September 1996, the Minister for Foreign Affairs of Portugal informed the Commission that the weapons in question, G-3 7.62 mm rifles, had not been produced in Portugal, did not belong to the Portuguese armed forces or security forces and were not listed in the files of the public security police.

G. SPAIN

15. By a note verbale dated 30 October 1996, the Permanent Mission of Spain to the United Nations responded to an inquiry made by the International Commission concerning the flight of a B-07 aircraft, registration number 5N-OCL, on 24 May 1994. The note, which was accompanied by copies of internal reports by airport officials, including cargo manifests, stated that the aircraft had flown on the date in question from Lanzarote to Madrid. According to the cargo manifest, the aircraft was carrying a consignment of tuna fish destined for Madrid and Tokyo. The Government of Spain further informed the Commission that no authorization had been found to have been given by the relevant Spanish authorities for the transportation of explosives on the flight in question on that date. The aircraft left Madrid for Malta at 11.29 p.m. There were no documents indicating that it was carrying cargo on that flight.

H. SWITZERLAND

16. In its second report to the Security Council, dated 14 March 1996 (S/1996/195, annex, paras. 35 and 36), the International Commission described its efforts to identify the holder of a bank account from which funds had been drawn to pay for arms the Commission believed had been supplied to the former Rwandese government forces in violation of the arms embargo.

17. According to the Government of Seychelles, which informed the Commission that it had sold the arms in question in the belief that they were destined for Zaire, the arms had been paid for by two payments totalling $330,000 into the account of the Central Bank of Seychelles in the Federal Reserve Bank of New York in mid-June 1994. The Commission subsequently established that the payments had come from a Geneva-based bank, the Union bancaire privée.

18. As described in paragraph 62 of its third report to the Security Council (S/1997/1010, annex), the Commission wrote to the Government of Switzerland in July 1996 requesting further information concerning the transaction.

19. In a letter dated 12 August 1997, the Attorney-General of Switzerland notified the International Commission that a preliminary investigation had been launched against persons unknown in connection with a possible violation of the law on war matériel. According to information provided to the Government of Switzerland by the Union bancaire privée, the two payments in question had come from bank account number 82113 CHEATA at the Lugano branch of the bank. The

account holder was identified as Mr. Willem Petrus Ehlers, a South African citizen.

20. As noted in the Commission's second report to the Security Council (S/1996/195, annex, paras. 21-29), Mr. Ehlers was instrumental in arranging the sale of the arms, which, in the Commission's belief, were subsequently delivered to the former Rwandese government forces in Gisenyi, Rwanda. In helping to arrange this transaction, Mr. Ehlers had worked closely with Col. Théoneste Bagosora and with another man the Commission has identified as Mr. Hunda Nzambo.

21. According to additional information provided by the Swiss authorities to the International Commission, Mr. Ehlers' bank account, number 82113 CHEATA, was credited with the sums of $592,784 and $734,099 on 14 and 16 June 1994, respectively. On 15 and 17 June 1994, the account was debited by $180,000 and $150,000, each payment being made to the Federal Reserve Bank of New York for the account of the Central Bank of Seychelles. According to a letter dated 30 October 1997 from the Attorney-General of Switzerland addressed to the Chairman of the International Commission, the order for the two payments made into the Ehlers account on 14 and 16 June 1994 came from the Banque nationale du Rwanda, Kigali. The source of the funds was listed as the Banque nationale de Paris, SA.

22. Also according to the bank statements, on 28 June 1994, the sum of $97,024 was transferred from account number 82113 CHEATA to the Kredietbank NV in Brussels for the account of "Mr. Nzambo Hunda".

23. On 13 November 1996, the Office of the Attorney-General of Switzerland confiscated the Union bancaire privée account and ordered the relevant bank statements to be handed over to it. The authorized signatory of the account was interrogated and house searches were conducted in the canton where he lived.

24. In addition to making available to the International Commission copies of the bank statements, the Swiss authorities also provided it with copies of letters detailing the Union bancaire privée's efforts to secure from Mr. Ehlers contracts and bills of lading to support his contention that the transaction in question concerned the purchase of a consignment of fresh fish.

25. Mr. Ehlers in turn promised to secure the necessary documents from the Government of Seychelles and promised the Union bancaire privée in a letter dated 4 November 1996 that the documents would be sent to the bank on 8 November under the signature of President France Albert René of the Republic of Seychelles.

26. On 12 November 1996, Mr. Glenny M. Savy, Executive Chairman of the Islands Development Company, Seychelles, wrote to the manager of the Union bancaire privée to confirm that the Government of Seychelles had sold to the Government of Zaire "a consignment of goods" in June 1994, in a sale brokered by Mr. Ehlers. Mr. Savy also confirmed having been paid by bank transfers made by Mr. Ehlers to the Government of Seychelles, through the Federal Reserve Bank of New York, by two payments totalling $330,000 and a further amount of $40,000 on

the account of COI at the Banca Nazionale del Lavoro in Alessandria, Italy. Mr. Savy's letter does not identify the nature of the goods sold.

27. The International Commission has supplied the Office of the Attorney-General, at the latter's request, with certain information at its disposal in order to assist the Attorney-General in her inquiries.

I. UNITED KINGDOM

28. By a letter dated 14 November 1996, the United Kingdom Customs and Excise replied to the Commission's request of 12 September 1996 requesting information about a possible violation of the arms embargo. The letter noted that Her Majesty's Customs had no record of receiving the Commission's earlier letters dated 30 November and 18 December 1995. As noted in its first report to the Security Council (S/1996/67, annex), the Commission had met with Her Majesty's Customs investigators in London in January 1996 and had been supplied with the information it requested.

29. In its letter of 14 November, Her Majesty's Customs provided the Commission with information on an apparently unusual flight chartered by a British company involving an arms flight to Kinshasa in 1994.

30. As described in its third report, the Commission requested technical assistance from the British Ministry of Defence in identifying weapons that, the Commission had been informed, had been found in the possession of Rwandan insurgents linked to the former Rwandese government forces. The assistance was provided by the Ministry of Defence Pattern Room, which provided preliminary information as reported in the third report (S/1996/1010, para. 65).

31. The Pattern Room, in a letter dated 24 October 1996, subsequently provided further detailed technical information on the weapons inspected by the Commission. These included G.3 7.62 mm rifles, FN/FAL 7.62 mm rifles, SG 542 7.62 mm rifles, 7.62 mm GPMG (MAG.58) machine-guns, .75 mm recoilless rifles and R-4 5.56 mm rifles. Although the Pattern Room provided a great deal of helpful background information, its officials stressed that a detailed examination of the arms, including internal parts, would be essential if positive statements of identification were required.

J. ZAMBIA

32. In a note verbale dated 3 December 1996, the Government of Zambia responded to an inquiry dated 16 October 1996 from the International Commission concerning allegations that several deliveries of arms and matériel had been made from the port of Mpulungu on Lake Tanganyika in February, March and May 1996. The Government categorically denied any involvement in the planning, acquisition, delivery or distribution of arms and ammunition or of any other war-like material to the former Rwandese government forces or any forces in the Great Lakes region.

33. In its note, the Government of Zambia said it was not aware of the arms shipments alleged to have been transported from Mpulungu to Goma and Bukavu, Zaire, between February and May 1996. The Government pledged full cooperation and proposed that a United Nations-sponsored joint investigation team comprising members of the International Commission of Inquiry and Zambia be instituted to investigate the allegations and establish the truth.

K. INTERNATIONAL CIVIL AVIATION ORGANIZATION

34. By a letter dated 23 September 1996, which was received only on 5 December 1996, the International Civil Aviation Organization (ICAO) replied to the Commission's request for information, dated 22 August 1996, regarding the Nigerian-registered B-707 aircraft referred to in paragraph 15 above. ICAO provided the Commission with the addresses of the civil aviation authorities in Spain and Malta that would be able to furnish further information about the flight details.

II. CONTACTS WITH OTHER GOVERNMENTS

A. RWANDA

35. In late November 1996, Banyamulenge forces in former eastern Zaire attacked and seized Mugunga camp, which had been occupied by elements of the former Rwandese government forces. According to press reports that appeared at the time, the attackers found a large quantity of documents in the camp, many of which were said to relate to the rearming, training and military plans being drawn up by the former Rwandese government forces. The Commission understood that the Government of Rwanda had then taken possession of the documents.

36. Accordingly, on 21 November 1996, the Chairman of the Commission wrote to the Government of Rwanda explaining that the Commission had suspended operations pending a decision by the Security Council on its future activities. Should the Council decide to request the Commission to continue its investigations, the Commission would be grateful for an opportunity to examine the documents in order to supplement the inquiries it had made so far, with a view to reporting further to the Security Council if required. No reply has been received from the Government of Rwanda.

B. SOUTH AFRICA

37. When in South Africa in September 1996, members of the International Commission established contact with the Cameron Commission, which is investigating the illegal transfer of firearms from South Africa to other African countries, including the Great Lakes region, and received valuable information from it.

38. While making it clear that its mandate covers the illegal supply of arms and matériel to the former Rwandese government forces and not necessarily alleged violations of any country's domestic law, the International Commission

has in turn assisted the Cameron Commission in its inquiries by providing it with information at its request.

III. CONCLUSIONS

39. The replies from Governments and from ICAO to requests for information from the International Commission of Inquiry indicate the seriousness with which the Governments concerned have addressed reports relating to the possible violation of the Security Council arms embargo against the former Rwandese armed forces. In many cases, the Governments concerned have launched thorough investigations into reports that their nationals may have been involved in or their territory used in the course of an alleged violation of the embargo and have provided the Commission with detailed accounts of the results. Some Governments have also offered expert technical advice. The International Commission of Inquiry would like to express its deep appreciation for the assistance rendered and the information provided to it in the course of its inquiries by the Governments it has approached.

40. Some of the information provided would appear to open up fresh lines of inquiry. In particular, the Commission would welcome the cooperation of the Governments of the United Kingdom and Rwanda in arranging a physical inspection of the weapons captured on Iwawa Island, Rwanda, by the Government of Rwanda in November 1995 by officials of the United Kingdom Ministry of Defence in order to establish the origin of the weapons. Furthermore, the Commission would look forward to cooperating with the Government of Zambia in an investigation of the report described in paragraph 32 above. The documents seized at the Mugunga refugee camp in former eastern Zaire in November 1996, which reportedly name companies apparently dealing with the former Rwandese government forces, would also be of interest to the Commission.

41. Moreover, the inquiry conducted by the Government of Switzerland has revealed information of particular interest and importance concerning the arms sale that took place in Seychelles in June 1994. As stated in the Commission's second report to the Security Council of March 1996 (S/1996/195, annex, para. 69), those weapons were flown to Goma, Zaire, in two consignments of about 40 tons each by an Air Zaire DC-8 cargo aircraft with the registration number 9QCLV. The Commission concluded that it was highly probable that the weapons were thereafter transferred to the former Rwandese government forces then in Gisenyi, Rwanda. The delivery would thus have constituted a violation of the embargo.

42. In its second report, the Commission described the involvement in that arms transaction of Col. Théoneste Bagosora, now awaiting trial before the International Criminal Tribunal for Rwanda on charges arising from the genocide of 1994, and of Mr. Willem Petrus Ehlers, a South African citizen.

43. On the basis of the information it has since received, and in cooperation with the Governments of Switzerland, South Africa and others as necessary, the Commission would intend to investigate further the precise role or roles played by Mr. Ehlers in the Seychelles arms transaction in June 1994 and the source of the funds used to finance that transaction.